

HOUSE BILL No. 1251

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-9.1-1-7; IC 4-12; IC 4-13.

Synopsis: Hoosier Rx program. Requires the secretary of the office of family and social services to use money in the Indiana prescription drug account only for the prescription drug program. Automatically allots the money for use in the prescription drug program. Specifies that a person may bring an action for declaratory and equitable relief for violations of the provisions concerning allotment of appropriated funds.

Effective: Upon passage.

Becker, Brown C

January 20, 2004, read first time and referred to Committee on Public Health.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1251

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-9.1-1-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The board
3 may transfer money between state funds, and the board may transfer
4 money between appropriations for any board, department, commission,
5 office, or benevolent or penal institution of the state. After the transfer
6 is made the money of the fund or appropriation transferred is not
7 available to the fund or the board, department, commission, office, or
8 benevolent or penal institution from which it was transferred.
9 (b) An order by the board to make a transfer under this section is
10 sufficient authority for the making of appropriate entries showing the
11 transfer on the books of the auditor of state and treasurer of state.
12 (c) The authority given the board under this section to make
13 transfers does not apply to **either of the following**:
14 (1) Trust funds. For the purposes of this section, "trust fund"
15 means a fund which by the constitution or by statute has been
16 designated as a trust fund or a fund which has been determined by
17 the board to be a trust fund.



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1 **(2) Funds designated as automatically allotted and thereby**
 2 **excluded from the transfer process as provided for in an**
 3 **appropriation act or in any other law.**

4 SECTION 2. IC 4-12-1-12 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Within
 6 forty-five (45) days following the adjournment of ~~the regular session of~~
 7 ~~the~~ **a general assembly in which a budget is adopted**, the budget
 8 agency shall examine the acts of such general assembly and, with the
 9 aid of its own records and those of the budget committee, shall prepare
 10 a complete list of all appropriations made by law for the budget period
 11 beginning on July 1 following such ~~regular session~~ **in which a budget**
 12 **is adopted**, or so made for such other period as is provided in the
 13 appropriation. While such list is being made by it, the budget agency
 14 shall review and analyze the fiscal status and affairs of the state as
 15 affected by such appropriations. A written report thereof shall be made
 16 and signed by the budget director and shall be transmitted to the
 17 governor and the auditor of state and shall be mailed to each member
 18 of such general assembly.

19 (b) Not later than the first day of June of each calendar year, the
 20 budget agency shall prepare a list of all appropriations made by law for
 21 expenditure or encumbrance during the fiscal year beginning on the
 22 first day of July of that calendar year. At the same time, the budget
 23 agency shall establish the amount of a reserve from the general fund
 24 surplus which such agency estimates will be necessary and required to
 25 provide funds with which to pay the distribution to local school units
 26 required by law to be made so early in such fiscal year that revenues
 27 received in such year prior to the distribution will not be sufficient to
 28 cover such distribution. Not later than the first day of June following
 29 adjournment of such regular session of the general assembly, the
 30 amounts of the appropriations for such fiscal year, and the amount of
 31 such reserve, shall be written and transmitted formally to the auditor of
 32 state who then shall establish the amounts of such appropriations, and
 33 the amount of such reserve, in the records of the auditor's office as
 34 fixed in such communication of the budget agency.

35 (c) Within sixty (60) days following the adjournment of any special
 36 session of the general assembly, or within such shorter period as the
 37 circumstances may require, the budget agency shall prepare for and
 38 transmit to the governor and members of the general assembly and the
 39 auditor of state, like information, list of sums appropriated, and if
 40 required, an estimate for a reserve from the general fund surplus for
 41 distribution to local school units, all as is done upon the adjournment
 42 of a regular session, pursuant to subsections (a) and (b) ~~of this section~~

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to the extent the same are applicable.

(d) The budget agency shall administer the allotment system provided in IC 4-13-2-18.

(e) The budget agency may transfer, assign, and reassign any appropriation or appropriations, or parts of them, excepting those appropriations made to the Indiana state teacher's retirement fund established by IC 21-6.1, made for one (1) specific use or purpose to another use or purpose of the agency of state to which the appropriation is made, but only when the uses and purposes to which the funds transferred, assigned, and reassigned are uses and purposes the agency of state is by law required or authorized to perform. No transfer may be made as in this subsection authorized unless upon the request of and with the consent of the agency of state whose appropriations are involved. Except to the extent otherwise specifically provided, every appropriation made and hereafter made and provided, for any specific use or purpose of an agency of the state is and shall be construed to be an appropriation to the agency, for all other necessary and lawful uses and purposes of the agency, subject to the aforesaid request and consent of the agency and concurrence of the budget agency. **The transfer, assignment, or reassignment of funds, accounts, and appropriations provided for in this section applies to transfers, assignments, or reassignments except as specifically provided for in an appropriation act or in any law. If an appropriation, an account, or a fund is specifically excluded from the transfer, assignment, or reassignment process, whether by an appropriation act or any other law, the money in the appropriation, account, or fund may not be transferred, assigned, or reassigned by the budget agency.**

(f) One (1) or more emergency or contingency appropriations for each fiscal year or for the budget period may be made to the budget agency. Such appropriations shall be in amounts definitely fixed by law, or ascertainable or determinable according to a formula, or according to appropriate provisions of law taking into account the revenues and income of the agency of state. No transfer shall be made from any such appropriation to the regular appropriation of an agency of the state except upon an order of the budget agency made pursuant to the authority vested in it hereby or otherwise vested in it by law.

SECTION 3. IC 4-12-8-2, AS AMENDED BY P.L.107-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The Indiana prescription drug account is established within the Indiana tobacco master settlement agreement fund for the purpose of providing access to needed prescription drugs

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to ensure the health and welfare of Indiana's low income senior citizens. The account consists of:

- (1) amounts to be distributed to the account from the Indiana tobacco master settlement agreement fund;
- (2) appropriations to the account from other sources;
- (3) rebates:

- (A) required under 42 U.S.C. 1396r-8(a) for a Medicaid waiver under which a prescription drug program is established or implemented; or

- (B) voluntarily negotiated under a prescription drug program that is established or implemented;

to provide access to prescription drugs for low income senior citizens; ~~and~~

(4) federal funds received under 42 U.S.C. 1396r-8(a) for a Medicaid waiver; and

(5) grants, gifts, and donations intended for deposit in the account.

(b) The account shall be administered by the ~~budget agency~~ **office of the secretary of family and social services for the Indiana prescription drug program**. Expenses for administration and benefits under the Indiana prescription drug program established under IC 12-10-16 shall be paid from the account. Money in the account at the end of the state fiscal year does not revert to the state general fund or the Indiana tobacco master settlement agreement fund but is annually appropriated and remains available for expenditure for a prescription drug program established or implemented to provide access to prescription drugs for low income senior citizens. **Money in the account is automatically allotted, and appropriations, allotments, and money in the account are not subject to:**

- (1) transfers by the state board of finance as allowed under IC 4-9.1-1-7;**

- (2) transfer, assignment, or reassignment by the budget agency as allowed under IC 4-12-1-12(e); or**

- (3) allotment by the budget agency as allowed by IC 4-13-2-18.**

(c) Money in the account may be used to match federal funds available under a Medicaid waiver under which a prescription drug program is established or implemented to provide access to prescription drugs for low income senior citizens.

SECTION 4. IC 4-13-1-18.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.1. (a) A citizen of Indiana may bring an**

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1 action for declaratory and equitable relief against a state agency or
 2 an officer of the state for failing to follow the procedures for the
 3 expenditure of funds under IC 4-9.1-1-7, IC 4-12-8-2, or
 4 IC 4-13-2-18.

5 (b) A citizen, as a condition precedent to maintaining an action,
 6 must give notice in writing by registered or certified mail to:

- 7 (1) the budget agency;
- 8 (2) the auditor of state;
- 9 (3) the agency to which the appropriation was made; and
- 10 (4) the attorney general.

11 (c) An action under this section must be brought in a circuit or
 12 superior court in Marion County.

13 (d) In an action under this section, the court may order the
 14 agency to issue the documents necessary to obtain warrants.

15 SECTION 5. IC 4-13-2-18 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) For the
 17 purpose of the administration of the allotment system provided by this
 18 section, each fiscal year shall be divided into four (4) quarterly
 19 allotment periods, beginning respectively on the first day of July,
 20 October, January, and April. However, in any case where the quarterly
 21 allotment period is impracticable, the ~~state~~ budget director may
 22 prescribe a different period suited to the circumstances but not
 23 extending beyond the end of any fiscal year.

24 (b) **The allotment process applies to appropriations, funds, and**
 25 **accounts except as provided for in an appropriation act, or except**
 26 **as provided in any other law that designates the appropriation,**
 27 **fund, or account as automatically allotted. In the latter case, the**
 28 **books of the auditor of state and treasurer of state shall show the**
 29 **money appropriated to or received by the funds and accounts as**
 30 **automatically allotted.**

31 (c) Except as otherwise expressly provided in this section, the
 32 provisions of this chapter relating to the allotment system and to the
 33 encumbering of funds shall apply to appropriations and funds of all
 34 kinds, including standing or annual appropriations and dedicated funds,
 35 from which expenditures are to be made from time to time by or under
 36 the authority of any state agency. However, the provisions relating to
 37 the allotment system shall not apply to moneys made available for the
 38 purpose of conducting a post-audit of financial transactions of any state
 39 agency. Likewise, appropriations for construction or for the acquisition
 40 of real estate for public purposes may be exempted from the allotment
 41 system by the ~~state~~ budget director, but in such cases ~~he~~ **the budget**
 42 **director** shall prescribe such regulations as will insure the proper

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1 application and encumbering of funds.

2 (c) No appropriation to any state agency shall become available for
3 expenditure:

4 (1) until:

5 ~~(1)~~ (A) such state agency shall have submitted to the state
6 budget agency a request for allotment, such request for
7 allotment to consist of an estimate of the amount required for
8 each activity and each purpose for which money is to be
9 expended during the applicable allotment period; and

10 ~~(2)~~ (B) such estimate contained in the request for allotment
11 shall have been approved, increased, or decreased by the state
12 budget director and funds allotted therefor as hereinafter
13 provided; or

14 (2) until an appropriation act or any other law designates the
15 appropriation, fund, or account as automatically allotted.

16 The form of a request for allotment **under subdivision (1)**, including
17 a request by hand, mail, facsimile transmission, or other electronic
18 transmission, shall be prescribed by the ~~state~~ budget agency with the
19 approval of the auditor of state and shall be submitted to them at least
20 twenty-five (25) days prior to the beginning of the allotment period.

21 ~~(d)~~ (e) Each request for allotment shall be reviewed by the ~~state~~
22 budget agency and respective amounts therein shall be allotted for
23 expenditure if:

24 (1) the estimate therein is within the terms of the appropriation as
25 to amount and purpose, having due regard for the probable future
26 needs of the state agency for the remainder of the fiscal year or
27 other term for which the appropriation was made; and

28 (2) the agency contemplates expenditure of the allotment during
29 the period.

30 Otherwise the ~~state~~ budget agency shall modify the estimate so as to
31 conform with the terms of the appropriation and the prospective needs
32 of the state agency and shall reduce the amount to be allotted
33 accordingly. The ~~state~~ budget agency shall act promptly upon all
34 requests for allotment and shall notify every state agency of its
35 allotments at least five (5) days before the beginning of each allotment
36 period. The total amount allotted to any agency for the fiscal year or
37 other term for which the appropriation was made shall not exceed the
38 amount appropriated for such year or term.

39 ~~(e)~~ (f) The ~~state~~ budget director shall also have authority at any time
40 to modify or amend any allotment previously made by him.

41 ~~(f)~~ (g) In case the ~~state~~ budget director shall discover at any time
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(1) the probable receipts from taxes or other sources for any fund will be less than were anticipated; and

(2) as a consequence the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor;

~~he~~ **the budget director** shall, with the approval of the governor, and after notice to the state agency or agencies concerned, reduce the amount or amounts allotted or to be allotted so as to prevent a deficit.

~~(g)~~ **(h)** The ~~state~~ budget agency shall promptly transmit records of all allotments and modifications thereof to the auditor of state.

~~(h)~~ **(i)** The auditor of state shall maintain as a part of the central accounting system for the state, as hereinbefore provided, records showing at all times, by funds, accounts, and other pertinent classifications, the amounts appropriated, the estimated revenues, the actual revenues or receipts; the amounts allotted and available for expenditure, the total expenditures, the unliquidated obligations, actual balances on hand, and the unencumbered balances of the allotments for each state agency.

~~(i)~~ **(j)** No payment shall be made from any fund, allotment, or appropriation unless the auditor of state shall first certify that there is a sufficient unencumbered balance in such fund, allotment, or appropriation, after taking into consideration all previous expenditures to meet the same. In the case of an obligation to be paid from federal funds, a notice of federal grant award shall be considered an appropriation against which obligations may be incurred, funds may be allotted, and encumbrances may be made.

~~(j)~~ **(k)** Every expenditure or obligation authorized or incurred in violation of the provisions of this chapter shall be void. Every payment made in violation of the provisions of this chapter shall be illegal, and every official authorizing or making such payment, or taking part therein, and every person receiving such payment, or any part thereof, shall be jointly and severally liable to the state for the full amount so paid or received. If any appointive officer or employee of the state shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this chapter, or take any part therein, it shall be ground for his removal by the officer appointing him, and if the appointing officer be other than the governor and shall fail to remove such officer or employee, the governor may exercise such power of removal after giving notice of the charges and opportunity for hearing thereon to the accused officer or employee and to the officer appointing him.

SECTION 6. An emergency is declared for this act.

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